



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/028,338

12/22/2001

Earl David Brock

16,905

2861

23556 7590 10/22/2008  
KIMBERLY-CLARK WORLDWIDE, INC.  
Catherine E. Wolf  
401 NORTH LAKE STREET  
NEENAH, WI 54956

EXAMINER

KIDWELL, MICHELE M

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

10/22/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte:* EARL DAVID BROCK, DUANE GERARD KRZYSIK,  
RHONDA SUE SOLBERG, STEPHEN LAWRENCE MILLER,  
and DAVID JOHN TYRRELL

---

Application No. 10/028,338  
Technology Center 3700

---

Mailed: October 22, 2008

---

Before KRISTA ZELE *Deputy Chief Appeals Administrator*  
ZELE, *Deputy Chief Appeals Administrator.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 29, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

**EXAMINER'S ANSWER, EVIDENCE RELIED UPON**

Section §1207.02 of the *Manual of Patent Examining Procedure*

(MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed March 27, 2007 is deficient because the "Evidence Relied Upon" section fails to include the reference(s) cited on page 2 in the Examiner's Answer's grounds of rejection.

Appropriate correction is required.

**CONCLUSION**

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) to issue a PTO-90 citing the missing references listed under the Evidence Relied Upon section, paragraph (8); and
- 2) for such further action as may be appropriate.

Application No.10/028,338

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/eld

KIMBERLY-CLARK WORLDWIDE, INC.  
CATHERINE E. WOLF  
401 NORTH LAKE STREET  
NEENAH WI 54956